

**MINUTES OF THE
SOCIAL SERVICES APPROPRIATIONS SUBCOMMITTEE**

Room 30 West House Building, State Capitol Complex

January 30, 2015

Members Present: Sen. Allen M. Christensen, Co-Chair
Rep. Paul Ray, Co-Chair
Rep. Edward H. Redd, House Vice Chair
Sen. Deidre M. Henderson
Sen. Brian E. Shiozawa
Sen. Alvin B. Jackson
Sen. Todd Weiler
Rep. Rebecca Chavez-Houck
Sen. Mark B. Madsen
Rep. Melvin R. Brown
Rep. Bradley M. Daw
Rep. Earl D. Tanner
Rep. Sandra Hollins
Rep. Robert Spendlove
Rep. Raymond Ward

Members Excused:

Members Absent: President Wayne L. Niederhauser
Sen. Luz Escamilla

Staff Present: Mr. Russell T. Frandsen, Fiscal Analyst
Mr. Stephen C. Jardine, Fiscal Analyst
Ms. Paula Winter, Secretary

Note: A copy of related materials and an audio recording of the meeting can be found at www.le.utah.gov.

0. Call to Order/Approval of Minutes

Co-Chair Ray called the meeting to order at 8:16 a.m.

1. Unfinished Items from the Previous Agenda

Department of Human Services' Substance Abuse and Mental Health (DSAMH) Base Budget (materials in COBI)

Stephen Jardine, Fiscal Analyst, reviewed items from the available materials to clarify how funds are used. He explained that the Division of Substance Abuse and Mental Health is a small policy office that determines policy and provides support to local areas for substance abuse and mental health. Mr. Jardine further explained that the areas of substance abuse and mental health were previously two separate entities but were combined to save money. Mr. Jardine referenced the State Hospital and several other areas and gave examples to illustrate situations. Mr. Jardine emphasized that budgets are not set in concrete. Mr. Jardine explained the area of statewide

contracts. He continued to cover several areas including Drug Courts. Mr. Jardine then gave some explanation of the distribution of Drug Courts which are continuing to develop. He spoke of the Drug Offender Rehabilitation Act (DORA) and about money previously being cut and the requests coming up. He explained how the beds are determined at the State Hospital. He also mentioned several restricted funds. There was a short review of those performance measures that had gone up or down by 5% or more.

Substance Abuse and Mental Health Expenditure Trends that May be of Interest

Mr. Jardine spoke about some trends in all the divisions of Human Services which are on the upward trend except for the Division of Substance Abuse and Mental Health (DSAMH) and the Division of Services for People with Disabilities. He gave a reason for the upward trend. He examined the area of Federal Grants and shared one example.

Review of Substance Abuse and Mental Health Off-Budget Funds (materials in COBI) <http://le.utah.gov/inter/2015/pdf/00000311.pdf>

Mr. Jardine referred to two funds:

- (1) #8D Fund 2200 – State Hospital Unit Fund

Rep. Ward asked for clarification on this fund and Mr. Jardine went on to clarify.

Rep. Chavez-Houck asked for clarification on whether we had approved the motion last year and it was explained that the motion was reviewed but not voted on. Mr. Jardine continued explaining the motions.

- (2) #8I Fund 7310 State Hospital Patient Trust Fund – Mr. Jardine gave a short explanation.

Budget Effectiveness Review Options <http://le.utah.gov/interim/2015/pdf/00000331.pdf>

Mr. Jardine looked at the Affordable Care Act (ACA) savings to local mental health systems and explained the figures. Mr. Jardine clarified that this savings would be for the whole state.

Rep. Redd asked for clarification about people previously being covered by county dollars now being covered by the ACA coverage. Mr. Frandsen explained and proceeded to the DORA program figures. He stated that by voting for this there would be a freeing up of money to be used in other places.

Rep. Redd asked in clarification if that means the DORA program would be discontinued and Mr. Jardine replied in the affirmative.

Motion #7F

<http://le.utah.gov/interim/2015/pdf/00000311.pdf>

Mr. Jardine continued speaking about an audit done in 2014 by the Legislative Auditors called an In-Depth Budget Review and reported on in December of 2014. He reviewed the audit findings:

Before he proceeded, Rep. Ward had a question about the State Hospital not having contracts with outside providers but still required to provide care and asked for clarification on insurance coverage. He and Mr. Jardine continued to discuss that issue. Doug Thomas, Director, DSAMH, answered the concern about coverage for patients by age. He continued clarifying the services with comments from Rep. Ward.

\$32,500 savings at Utah State Hospital (USH) from HB 14 (2012 General Session)
\$2.7 million savings from elimination of the DORA program

Rep. Redd had a question about funding for the State Hospital and Medicaid payment. Mr. Thomas and Rep. Redd continued clarification along with comment from Mr. Jardine, Fiscal Analyst.

Mr. Jardine continued with information about HB 14.

Rep. Daw made an observation about the amount of funds being recommended for one patient.

Mr. Jardine referenced another item where savings could come from which was:

\$650,000 – maximize Drug Court Medicaid funding

Rep. Redd asked who would be responsible for informing people they are eligible for Medicaid. Mr. Jardine replied that it requires coordination between the Drug Court program and the Department of Workforce Services. He also indicated there was a motion upcoming which deals with this issue.

Motion #7F says that the Department of Human Services (DHS) would report to the analyst by September 1, and in turn those findings would be reported to the Committee in the interim.

Federal Funds in the Department of Human Services – Issue Brief

<http://le.utah.gov/interim/2015/pdf/00000456.pdf>

Action #1C – Federal Funds Approval Motion

Agency Explanation of Federal Reserves Over Three Months

<http://le.utah.gov/interim/2015/pdf/00000456.pdf>

Mr. Jardine referred to the online information and spoke about the mental health Block Grant. He informed the Committee that it is the authority of the Committee to make the final decision. He indicated that some are new grants and some are increases on existing grants for an increase of \$61,000. The Basic Mental Health Block Grant is for \$3 million. He continued down the list of grants and their purposes. The Department indicated that there are no new grants reflected in the tables that were not previously authorized by the Legislature either last year or that have not been reviewed by the Executive Appropriations Committee as required by law. He proceeded to show the Substance Abuse Treatment Block Grant and its use. Mr. Jardine suggested looking at the information online.

Rep. Redd asked about the subcategories of use of general treatment pass through to local authorities and women's treatment to local authorities and wondered if there is a reason for that. Mr. Jardine responded that he believed it is required by federal law. There was further expansion on the comment.

Brent Kelsey, Director, Division of Substance Abuse and Mental Health (DSAMH), helped clarify the issue of women's treatment. He explained the parameters of that part of the grant.

Mr. Jardine next referred to the Mental Health Block Grant budget so that the Committee could see it.

He also referred to questions that were asked of the agency regarding obtaining each of the grants.

Agency Requests for Non-lapsing Authority

<http://le.utah.gov/interim/2015/pdg/00000311.pdf>

<http://le.utah.gov/interim/2015/pdf/00000447/pdf>

Motions: #3V, #3W, #3X are to be voted on. Mr. Jardine commented that they were approved last year and have been for a number of years. He proceeded to briefly explain each one:

#3V – deals with Drug Court Money

#3W – deals with state and local substance abuse services

#3X – deals with DSAMH and use of funds for particular one-time items

Three Proposed Performance Measures to Include in Appropriations Acts via Intent Language

<http://le.utah.gov/interim/2015pdf/00000311.pdf>

#9K Motions for Subcommittee Consideration

Mr. Jardine indicated that the Target numbers should be increased. Mr. Jardine continued to

explain.

#1N – Motions for Subcommittee Consideration

Mr. Jardine read through the intent language which dealt with providing a report to the LFA no later than September 1, 2015.

Rep. Daw asked about his motion and Mr. Jardine stated that his motion is an amendment to #1N. Mr. Jardine showed Rep. Daw's motion which has added the words "including the implementation and reporting on measures of post program recidivism."

Rep. Ray called on someone from the agency to respond to the amendment.

Brent Kelsey, Assistant Director, DSAMH, commented on an existing relationship with the DWS and did not think that increased coordination would require additional FTEs. He also stated that they thought the recommendation was good.

Rep. Chavez-Houck asked whether or not it would be difficult to capture information on recidivism rates with existing systems and would there be a base line to move forward from. Mr. Kelsey replied that there are two issues in the intent language and commented on those two issues.

Sen. Madsen asked for clarification on item #3 on the intent language which states ... "any identified saving or additional funding of drug court recipients as a result of improved coordination efforts." Mr. Jardine responded to explain that any savings could be reinvested in drug court and save offenders from being put in prison.

MOTION: Rep. Ray moved to amend #1N to add "including the implementation and reporting on measures of post program recidivism" as part of #2 after the word "efforts."

The motion passed unanimously with Rep. Brown absent for the vote.

MOTION: Sen. Christensen moved to approve the following motions for the Department of Human Services Division of Substance Abuse and Mental health line item from the sheet entitled "Social Services Subcommittee – Motions for Subcommittee Consideration" dated 1/23/2015 9:15 PM: #1C, 1N as amended by Rep. Daw, 3V, 3W, 3X, 7F, 8D, 8I, and 9K as amended from the 12% to the 70%.

The motion passed unanimously with Rep. Brown absent for the vote.

3. E-cigarettes Enforcement Rates

Jennifer Dailey, Utah Academy of Family Physicians, reported on the effects and use of E-cigarettes. The suggestion is to remove the incentives for the use of the e-cigarettes for children. She cited information that they may not be as harmless as reported and used statistics and cited statistics to support her position. Ms. Dailey explained that these items are being marketed to children and that the nicotine contained in them primes the brain for addiction and is also the cognitive area of the brain. She continued to share information on the products and the situation.

Sen. Weiler asked for clarification on e-cigarette use today and what is legal. Rep. Ray responded to that and said there needs to be clarification.

Ms. Dailey cited a study by Salt Lake County on nicotine content in the e-liquids and found 73 out of 120 listed had higher nicotine amounts than what was labeled and that 32 of 33 samples labeled no nicotine had nicotine in them. She suggested that compliance be addressed.

Rep. Spendlove spoke on enforcing current laws and cited a study that indicated the delivery system of e-cigarettes to be much safer and stated that perhaps it would be better to eliminate traditional smoking and encourage the use of e-cigarettes as an alternative.

Ms. Dailey responded that the emphasis is not on discouraging the use of e-cigarettes but instead discourage children from using them and predisposing them to a lifetime of addiction. She continued to share information.

Rep. Ray also offered information about using e-cigarettes as a fill for when people couldn't smoke traditionally and that there has been an increase in the use of nicotine. Rep. Spendlove commented that the Legislature has the ability to impact that by banning the use of cigarettes. Rep. Spendlove and Rep. Ray continued to comment.

Rep. Redd commented on the statement that e-cigarettes are much safer and asked if there were studies to indicate that especially on the issue of the presence of formaldehyde.

Sen. Madsen questioned about addiction and exposure to nicotine early in life and whether the exposure of nicotine would increase the proclivity to be addicted in other areas. Ms. Dailey indicated she did not have information about that and there was continued conversation about addiction and chemical dependency. Ms. Dailey expressed her concern about the health crisis of addiction disorder in our state and also about exacerbating the issue.

There was more conversation to clarify some questions about the synthesizing of nicotine and the creation of a black market. Sen. Madsen questioned the reason for banning e-cigarettes from public places. He also voiced a concern about government regulating this area of people's lives. Ms. Dailey suggested there are two reasons for the elimination of e-cigarette use continuing in public places.

Rep. Ward indicated there are some things new and some not so new such as the fact that this is a way to get nicotine into your body and then becomes addicting. He gave an example using heroin that will not give all the results of heroin but it is still heroin. He continued to speak about addiction versus dependency. He asked a question of Ms. Dailey about the cost comparison of a juice cartridge to packs per day to get the amount of nicotine in a pack of cigarettes and wondered how the two compare. Ms. Dailey responded that there is a variable in dealing with the cartridges because the amount of nicotine available can differ. She continued to speak about how the financial aspect of an item can dis-incentivize the use of that item.

Brian Bennion, Director, Weber Morgan Health Department, spoke on regulations in this area. He gave statistics regarding e-cigarettes in his area. He reported on a survey that 20% of kids 8th, 10th, and 12th, grade are using e –cigarettes. He reported on the legal compliance check in businesses and also the concern about the manufacturing of the juice in a correct way and that it is distributed correctly and safely. Mr. Bennion also mentioned the increase in child poisonings nationally and in the state and indicated that is an area they wanted to address.

Sen. Shiozawa spoke about the addictive nature of nicotine. He agreed with Sen. Madsen and the idea of government meddling in people's business. He gave an analogy of heroin use and how it begins perhaps with something else and addiction to nicotine can begin the same way. He also mentioned benzene, which has been shown to be carcinogenic, as an ingredient in the vapor. He concluded that a lot more needs to be studied but the information we have is convincing.

Rep. Chavez-Houck referenced some information from last year reported by some pediatricians about teenagers that were addicted and using the e-cigarettes and how it was affecting their hearts and requested some additional information on that. She also asked about the ability of the students to purchase the items on the internet and if that was a problem and also where were the students getting the items.

Ms. Dailey responded that this was discussed last year in the House about the purchase online. Ms. Dailey continued to explain the question of on-line purchasing as well as informing the Committee along with Rep. Ray about the fact that Facebook is another place that students might look for supplies as well as other entrepreneurial ways to get them. Rep. Ray also spoke about enforcement currently.

Rep. Hollins spoke about her experience as a mental health provider and the adults she deals with and how they became addicted in their youth. She added that she would like to see an education component to this issue. Rep. Ray and Mr. Bennion affirmed that there is an effort being made and a component of that going on now. Rep. Ray added more comment to how e-cigarettes are adding to other parts of the economy.

Sen. Madsen clarified and confirmed that he is in favor of regulating the laws that are on the books now. He also stated that he is in favor of enhancing the penalties. He explained that the issue he has is when trying to solve problems for kids by manipulating things for adults. He again affirmed his reluctance to invoke the power of government to socially engineer human

nature. He spoke about increasing the price and how it may not be an effective deterrent as well as telling people how they need to run their lives may not be a good idea.

Rep. Ray stated that his bill is to try to eliminate the gray areas.

Ms. Dailey clarified that her intention was not to legislate adults' behavior.

4. Department of Health's Disease Control and Prevention Base Budget

Russell Frandsen, Fiscal Analyst, indicated areas considered in the Department of Health including: the State Laboratory, measles outbreak and health promotion. He informed the Committee of the amount of the funds involved and where they come from.

He then spoke of some areas where a 2% reduction could possibly take place.

a. Budget Effectiveness Review Options

<http://le.utah.gov/interim/2015/pdf/00000335.pdf>

Mr. Frandsen referred to several items for the possibility of reducing them which were:

- (1) #9 - DOH 1 Less FTE in Lab Support
- (2) #15 – DOH Less for Public Information by -.25 FTE
- (3) #19 - DOH Loss of Laboratory FTE

b. Performance Measure Trends

http://www.le.utah.gov/lfa/reports/cobi2015/Appr_LEH.htm#performanceTab

Mr. Frandsen reported on various trends in several areas including

- (1) Gonorrhea Cases
- (2) HIV related Deaths
- (3) Percentage of Children with Recommended Immunizations by Age 2

Rep. Ray had a question about the spike in numbers and the ability to medicate partners without the partner coming in. Mr. Frandsen replied. Mr. Frandsen also looked at HIV deaths and immunizations.

Sen. Madsen asked about the trend in increase of gonorrhea and what has changed in the heterosexual community that has caused the increase.

Jennifer Brown, Division Director, Disease Control and Prevention, relayed an answer to the question about the increase in gonorrhea cases. There was continuing conversation about the issue. Rep. Ray asked if we are trending the same as the national level and Ms. Brown replied that nationally we are lower and will get information on if the trending is continuing to go up.

Rep. Ward suggested that information about gonorrhea is not always easy to obtain and asked how the information is collected. Ms. Brown replied and said it may not be 100% accurate and

shared that it mainly comes from laboratory reporting statewide.

Rep. Daw asked a question about using needles and if the disease could be spread by needles. Ms. Brown indicated that is not the method that spreads the disease. Rep. Daw also asked about the target on the opioid prescription deaths and voiced a concern about the low target. Mr. Frandsen indicated that had been spoken about previously and so was not addressed again.

c. Other Motions for Consideration

Motions: #1D, 1E & 10B - <http://le.utah.gov/interim/2015/pdf/00000311.pdf>

Russell Frandsen, Fiscal Analyst, explained and clarified the process and reason for making this change. He read the recommendation for 10B.

d. Federal Funds in the Department of Health – Issue Brief
<http://le.utah.gov/interim/2015/pdf/00000394.pdf>

Mr. Frandsen spoke from information in the Brief under Disease Control and Prevention including the New Grants for this year.

Motion #1C Motions for Subcommittee Consideration

There was more information on the grants and Rep. Ray asked some questions about how the items were prioritized.

Jennifer Brown addressed the question and advised that the Health Advisory Committee sets the amounts for the grants and that cannot be changed. Rep. Ray had further comment

e. Agency Explanation of Federal Reserves Over Three Months

Sen. Madsen had a question and concern about the prescription data base being used as a surveillance tool. Mr. Frandsen stated that this is the reason we are going through this information and indicated this is part of #1C.

Jennifer Brown, Division Director, Department of Health (DOH), asked for further information on the Prescription Grant.

Dr. Rolfs addressed the concerns about using the word surveillance in reference to the controlled substance data base. He discounted the use of the word surveillance and clarified the use of the word for tracking trends.

Sen. Madsen commented on the data base surveillance term and his concern about it being government intrusion. Rep. Tanner asked for clarification of what the data base is. Dr. Rolfs responded about the use of it. There was continued discussion.

Rep. Tanner asked if the data base being discussed is the same one that indicates Dr. shopping and Dr. Rolfs indicated in the affirmative and gave more clarifying information.

Rep. Daw shared information that Sen. Weiler is sponsoring a bill to tighten down use of this data base regarding use by law enforcement.

Ms. Brown continued giving information about reserves in grants including:

- (1) Epi Capacity Grant
- (2) Diabetes, Heart Disease and Stroke Prevention State and Local Public Health Actions to Prevent
- (3) Ryan White Part B Supplemental Grant
- (4) Cancer Genomic & Falls Prevention Grant

f. Agency Requests for Non-lapsing Authority
<http://le.utah.gov/interim/2015/pdf/00000311.pdf>

Motions: #3B, #3G, 3M and 3K

Ms. Brown continued explaining these requests.

5. Department of Health's Local Health Departments Base Budget

http://www.le.utah.gov/lfa/reports/cobi2015/LI_LLA.htm

a. Three Proposed Performance Measures to Include in Appropriations Acts via Intent Language

Russell Frandsen, Fiscal Analyst, explained #9D. Clarified #1, 2, 3 and explained that 4, 5, and 6 are new this year and clarified each one of those.

6. Local Health Department Shared Funding

Dr. Robert Rolfs, Deputy Director, Department of Health, offered a response to the previous question of increase of gonorrhea and clarified why it is difficult to answer some of the questions asked about the information for the disease.

Sen. Shiozawa asked for clarification, because of a constituent question, about education and policy for efforts in education and outreach as far as the measles outbreak goes and if there is a perception to do anything different other than current policy. Dr. Rolfs shared information about the efforts being made about the issue and the complications

Dr. Rolfs responded with information about vaccinations and protection from disease as well as the exemption issue.

Dr. Rolfs spoke of the process of allocating funds between and among local and state departments what it is guided by. He referenced SB 21 passed in 2009. He explained what that law consisted of. He spoke in favor of that law.

MOTION: Rep. Daw moved to adjourn. The motion passed unanimously.

Co-Chair Ray adjourned the meeting at 10:52 a.m.

Sen. Allen M. Christensen, Co-Chair

Rep. Paul Ray, Co-Chair